STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission On Its Own Motion -vs- Illinois Power Company Reconciliation of revenues collected under gas adjustment charges with actual costs prudently incurred.	: : : : : : : :	00-0714

BRIEF ON EXCEPTIONS OF THE STAFF
OF THE ILLINOIS COMMERCE COMMISSION

NOW COMES the Staff of the Illinois Commerce Commission ("Staff"), by and through its attorneys, and hereby submits its Brief on Exceptions to the October 17, 2001, Proposed Order ("Proposed Order") in the above-captioned proceeding.

I. RETIREMENT OF THE FREEBURG PROPANE PLANT

Staff agrees with the Proposed Order's finding that Illinois Power Company ("IP" or "the Company") was imprudent in its decision to retire the Freeburg propane plant. However, the Proposed Order incorrectly assigns the amount of imprudently incurred gas cost as $955,000 rather than $1,273,000, as proposed by Staff. (Revised Staff Exhibit 2.0 at 6.) Staff maintains $1,273,000 is the appropriate amount.

IP claimed that since the Freeburg facility was not retired until April 2000, only $954,750, or 75% of the annual costs associated with replacement transportation service, be disallowed in this proceeding. (*See* Staff Initial Brief at 9.) However, the appropriate amount should be based on the date IP actually obtained the replacement transportation service in question. IP never indicated when it signed the replacement supply contract for the Freeburg facility. IP may have entered into the contract during the prior reconciliation period because it already planned to retire the facility.

However, IP did not dispute the replacement gas cost values until it filed sur-rebuttal testimony on August 1, 2001, a mere two days prior to the evidentiary hearing in this proceeding. In its rebuttal testimony, filed on July 12, 2001, IP did not dispute Staff's replacement gas cost value. It was not until the replacement gas cost was factored into Staff's PVRR analyses that IP concocted last minute changes in the replacement gas cost amount. (*See* Staff Initial Brief at 9-10.) The timing of IP's argument also precluded Staff from further investigating the true time frame in which IP purchased the replacement gas supply capacity. Given the circumstances, Staff believes $1,273,000 is the more appropriate adjustment for this issue.

Therefore, Staff proposes that the Proposed Order at 19 be modified as follows:

> Staff has proposed a disallowance of $1,273,000 as a consequence of IP's imprudent decision to retire the Freeburg plant. IP indicates that since the Freeburg plant was not retired until after the conclusion of the 1999-2000 winter season, it did not begin to incur replacement FT costs until at least April 2000. Therefore, IP concludes that any disallowance for imprudence should not exceed $955,000, which reduces Staff's proposed disallowance by 25% (i.e., 3 months divided by 12 months). In response, Staff asserts that the amount of the disallowance should be based on when IP obtained the replacement capacity and that IP may have purchased the capacity in 1999. The Commission concludes that ~~it is logical that the cost disallowance be $955,000 since replacement FT costs were not incurred until after the plant was retired~~ <u>IP failed to demonstrate when it began to incur replacement FT costs and a disallowance of $1,273,000 is reasonable</u>.

II. RETIREMENT OF THE GILLESPIE STORAGE FIELD

Staff does not agree with the conclusions in the Proposed Order regarding the retirement of the Gillespie storage field. Staff's testimony and briefs clearly demonstrate that IP failed to perform the necessary studies prior to reaching its decision to retire the facility and, in fact, IP failed to perform any studies regarding the continued operation of the facility.

The Proposed Order determines "…that an examination of the prudence of a utility decision in a PGA reconciliation proceeding should include an economic or PVRR analysis unless the reasons supporting the utility's decision are so significant and persuasive that they render an economic analysis unnecessary." (Proposed Order at 16.) Staff agrees this is a reasonable and valid standard. However, Staff believes an examination of IP's actions and the information contained in the record of this proceeding demonstrate that IP failed to meet this standard with regard to its actions at the Gillespie storage facility.

It is undisputed that IP failed to perform an economic analysis prior to reaching a decision to retire the facility. IP also admitted that after the decision to retire the Gillespie storage field was made, IP depleted the inventory, produced all cushion gas that could be recovered, plugged the wells, and abandoned the storage field. (*See* Staff Cross Exhibit 2.) Further, IP witness Frank Starbody did not know what, if any, equipment remained at the Gillespie storage field after its retirement. (Tr. at 90.) This occurred even though Mr. Starbody was one of the primary individuals involved in the decision to retire the facility. (Tr. at 86-87.)

Since the facility was already abandoned, Staff could not independently determine the true cost to upgrade the facility. Also, Staff could not determine what other upgrade or operating options were available to IP given the circumstances. However, the PVRR analysis that Staff conducted on the facility even using the Company's overstated upgrade costs, demonstrated the decision at that point was a break-even between the choices. (*See* Staff Initial Brief at 25.) Besides, the issue is not whether the PVRR analysis ultimately indicated that retirement of the facility versus upgrading was at a break-even point. Rather, according to the prudence standard utilized in assessing a utility's gas purchases, the issue is whether or not IP acted reasonably when it decided to retire the Gillespie facility. In this instance, IP's failure to conduct a meaningful PVRR analysis is *per se* unreasonable, and thus not prudent.

If IP had seriously considered retaining the Gillespie storage field's capacity, a more detailed study of necessary upgrades would have been conducted. (Id. at 26.) IP could also have examined possible alternative means of operating the field that may have required less expensive upgrades to retain the field's withdrawal capability. (Id.) Clearly and unfortunately, neither of these events occurred.

The Proposed Order's agreement with IP's arguments in this proceeding sets an unfortunate precedent for utilities to follow when deciding to retire a facility. Leaving the Proposed Order's conclusions in place for the Gillespie storage field decision establishes the precedent for utilities to overstate the repair costs of a facility without any supporting documentation and then to abandon the facility and leave it in such a condition that Staff or another party is not able to determine, with any accuracy, the true need to repair or replace portions of the facility. Furthermore, the Proposed Order allows a utility to not conduct a PVRR analysis before the decision to retire a facility is made so long as future analysis supports the decision.

The Proposed Order also agrees with IP that operational concerns at the Gillespie facility were legitimate regarding the continued operation of the storage field. (Proposed Order at 28.) Staff disagrees. While IP alleged potential operational concerns, it failed to demonstrate a valid basis for such concerns.

IP's primary claim was that should the Gillespie compressor station fail or trip offline, the Company would be unable to raise pressure in the surrounding distribution system quickly enough to prevent service outages. (IP Initial Brief at 17.) IP also claimed that service consequences caused by adverse external events affecting the distribution system (such as damage from a contractor) would be exacerbated due to the system operating at reduced pressure. (Id.)

IP failed, however, to demonstrate any historical problems associated with the compressor at the Gillespie storage field that gave rise to concern regarding the unit tripping off line. Also, IP never demonstrated why it suddenly had concerns with the manner in which it operated the Gillespie storage field, even though it had operated the field since 1958. (Id. at 16.) In addition, IP noted that the Gillespie field normally operated as a peaking facility during the most severely cold days. (Id.) IP failed to explain why contractor damage is more likely to occur on a severely cold day. Logic suggests that contractors are less likely to operate equipment on extremely cold days. IP's hastily formulated arguments are incredulous and should be disregarded.

Given the argument above, Staff proposes the "Commission Conclusion" section of the Proposed Order, starting with the third full paragraph on page 28, be modified as follows:

> Based on its review of the evidence, the Commission concludes that operational concerns with the field identified by IP are not a legitimate concern. ~~in light of the development of the area around the storage field.~~ The Commission notes~~, however,~~ that there is no evidence that past problems with the compressor have caused it to fail. The Commission does not believe that IP demonstrated that it would experience operational problems if the Gillespie storage field remained in service. ~~operational concerns are so significant that they preclude the need for a PVRR analysis as part of the decision as to whether the storage field should be retired.~~
>
> Turning to the PVRR analyses presented in this proceeding, the Commission notes that Staff's PVRR analyses and IP's base case PVRR analysis used $1,199,000 as the cost of the capital expenditures needed for the continued operation of the storage field. This figure is based on the cost of capital improvements at IP's Shanghai storage field. Staff contends that the $1,199,000 amount used in the PVRR analyses is overstated since the Shanghai storage field is larger and more complex than the Gillespie field and operates at higher pressure. Staff did not present an alternative estimate of the capital expenditures for the continued operation of the Gillespie storage field. Staff also noted that IP had already abandoned the facility, precluding Staff from developing alternative upgrade or repair estimates.
>
> IP contends that Staff's concerns about the Gillespie capital improvements cost estimate are misplaced since the work done at the Shanghai field involved a single compressor, the same piece of equipment that needs to be upgraded at the Gillespie field. IP notes that the overall size of the Shanghai field was not a factor that affected the costs to upgrade the Shanghai compressor. Based on the evidence, the Commission concludes that $1,199,000 is an overstated amount, however, the use of that value within a PVRR analysis does provide some direction as to actions that IP should have taken during the reconciliation period. ~~a reasonable estimate of the cost of the capital expenditures required at the Gillespie storage field.~~
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> * * *
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> The Commission concludes that the most reasonable PVRR comparisons in the record are those set forth two paragraphs above. Those

comparisons show slight PVRR savings from retirement of the storage field. However, t~~T~~hese results~~, along with the operational concerns identified by IP, support IP's decision to retire the Gillespie storage field.~~ should have indicated the need to conduct further studies rather than proceed with the retirement of the Gillespie storage field. The Commission concludes that IP's decision to retire the Gillespie storage field was not prudent.

Staff recommended an adjustment due to IP's decision to retire the Gillespie storage field of $441,678 that consists of three components: (1) $318,250 for replacement of pipeline FT capacity, (2) $6,100 for firm gas supply reservation, and (3) $117,328 for additional gas commodity costs that IP incurred during December 17-22, 2000 as a result of not having the Gillespie storage field available for withdrawals of gas to serve system load.

The Commission previously concluded Staff's use of the $318,250 within the PVRR was appropriate. Further, IP did not dispute the $6,100 charge. However, IP argues that conditions did not exist during the December 17-22 time frame that would warrant the withdrawal of gas from Gillespie had its capacity been available. The Commission believes the assumption that no gas would have been withdrawn had the Gillespie storage field been available is unreasonable and determines that Staff's amount is appropriate. Therefore, the Commission concludes the cost disallowance associated with IP's decision to retire its Gillespie storage field is $441,678.

III. PROPOSED MODIFICATIONS TO THE PROPOSED ORDER AND APPENDIX A

As a result of Staff's proposed modifications above, corresponding modifications are necessary to Findings and Ordering Paragraphs (4) and (6) and to Appendix A. Staff proposes the following modifications to Findings and Ordering Paragraphs (4) and (6):

V. FINDINGS AND ORDERING PARAGAPHS

(4) the evidence shows that for the calendar year 2000 reconciliation period, Illinois Power acted reasonably and prudently in its purchase of natural gas, except ~~with regard to its~~ that Illinois Power's decisions to retire its Freeburg propane plant and its Gillespie storage field and its method

for selecting swing firm supply reservation contracts were imprudent and unreasonable;

(6) Illinois Power should implement Factor O refunds of $1,614,435 ~~$900,915~~ for Rider A customers, $96,290 ~~$57,600~~ for Rider B Demand customers and $6,953 ~~$204~~ for Rider B Commodity customers in its first monthly PGA filing after the date of this Order.

In addition, corresponding modifications are necessary to Appendix A. Staff's proposed modifications to Appendix A are attached hereto. These amounts are identical to the amounts found in Staff Exhibit 3.0, Schedule 1.0 at page 1. Staff's proposed modifications to Appendix A are highlighted in the attached Revised Appendix A and affect lines 5, 10, 11, and 14.

IV. TYPOGRAPHICAL CORRECTIONS TO THE PROPOSED ORDER

In addition to the above-recommended modifications to the Proposed Order, Staff has also found a number of typographical corrections that will allow the Proposed Order to comport with the record. These proposed corrections are as follows:

Page 3, first line, change "by volume wee" to "by volume were";

Page 7, first line, change "are no reason" to "are not a reason";

Page 7, fourth paragraph, second line, change "1960" to "1966";

Page 10, first full paragraph, delete "Boiling Liquid Expanding Vapor Explosion ("BLEVE")" and replace with "BLEVE", BLEVE was previously mentioned in second paragraph on page 7.

Page 14, second paragraph, ninth line, delete "20%";

Page 17, second paragraph, last sentence, delete "Boiling Liquid Expanding Vapor Explosion ("BLEVE")" and replace with "BLEVE", BLEVE was previously mentioned in second paragraph on page 7;

Page 17, second paragraph, last sentence, delete "Boiling Liquid Expanding Vapor Explosion ("BLEVE")" and replace with "BLEVE", BLEVE was previously mentioned in second paragraph on page 7;

Page 19, first line, change "Freeburg pant" to "Freeburg plant";

Page 22, fourth paragraph, eighth line, change "1,999,000" to "1,199,000";

Page 22, fourth paragraph, ninth line, change "1.32%" to "1.62%";

Page 27, second paragraph, first line, change "12-17" to "17-22";

Page 27, second paragraph, seventh line, change "12-17" to "17-22"; and

Page 30, first paragraph, second line, change ""swing" to ""swing"".

V. CONCLUSION

For the foregoing reasons, Staff respectfully requests that the Commission approve the October 17, 2001, Proposed Order with Staff's proposed modifications contained herein.

Respectfully submitted,

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